

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION No. 04-11492-REK

MARIO LACY,
Plaintiff,

v.

WILLIAM J. FEENEY, JR.,
KENNETH HEARNS, JEAN MOSES
ACLOQUE and THE CITY OF
BOSTON,

Defendants.

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S SUPPLEMENTAL MOTION FOR LEAVE TO
FILE MOTION FOR SUMMARY JUDGMENT.**

NOW COME the Defendants in the above-entitled action and hereby
OPPOSE the Plaintiff's *Supplemental Motion for Leave to File Motion
for Summary Judgment* (Docket Entry # 38).

As grounds therefore, the Defendants state that:

1. The trial of this matter is scheduled to commence on April 17, 2006, just eleven days from the date of this pleading;
2. On November 9, 2005, this Court granted a joint motion (docket # 26) for extension of time to January 31, 2006, to complete discovery and file dispositive motions. Thus, the deadline to file a summary judgment motion was January 31, 2006;
3. On February 8, 2006, counsel appeared before this Court for a Pre-trial Conference. At that time, Plaintiff's counsel did not bring it to the Court's attention that he intended to file a motion for summary judgment;

4. On February 23, 2006, the Plaintiff filed a motion for summary judgment with memorandum of law;
5. The Plaintiff did not seek leave from this court to file his late summary judgment until March 13, 2006, the same day upon which the Court denied the Plaintiff's summary judgment motion (Docket entry # 37), citing the Plaintiff's failure to meet the January 31, 2006, deadline and his failure to seek leave of Court prior to filing his motion, and forty-one days following expiration of the deadline for filing dispositive motions;
6. Permitting the Plaintiff to file a motion for summary judgment at this late date would unduly delay the trial of this matter and prejudice the Defendants, who are prepared to commence trial.

For the forgoing reasons, Defendants request that this Honorable Court DENY the Plaintiff's *Supplemental Motion for Leave to File Motion for Summary Judgment*.

Respectfully submitted
DEFENDANT, CITY OF BOSTON
Merita A. Hopkins
Corporation Counsel

By its attorney:

/s/ James M. Chernetsky

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